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AND TENANT § 210C; *King v. Wilson*, 98 Va. 259, 35 S. E. 727; *Dougal v. McCarthy*, [1893] L. R. 1 Q. B. 736. And whether a term is applicable is a question of fact for the jury. *Oakley v. Monck*, [1866] L. R. 1 Ex. 159; *Mayor of Thetford v. Tyler*, 8 Q. B. 95. In an analogous situation consistency with the tenancy from year to year is the test. Where a tenant enters under an agreement for a lease, which is never executed, and pays an annual rent, a tenancy from year to year arises. Into this tenancy the terms of the intended lease, as far as they are applicable, are imported. *Thomson v. Amey*, 12 A. & E. 476. It would seem that the test should be the same in both these situations as the tenancy from year to year is, in each case, created by operation of law. REDMAN, LANDLORD AND TENANT, 6 ed., 12. The principal case stands alone in failing to use the consistency test. The result also appears wrong; for in answer to the question of fact it would seem that an option to purchase is consistent with a tenancy from year to year. *D'Arras v. Keyser*, 26 Pa. 249.

LEGACIES AND DEVISES — ADEMPMENT — DEVISE OF RENT CHARGE: EFFECT OF TESTATOR'S PURCHASE OF THE FEE. — A will contained a devise of a rent charge. Later the testator bought in the fee, the conveyance expressly stating that there was a merger. *Held*, that there was an ademption of the rent charge. *In re Bick*, [1920] 1 Ch. 488.

Ademption occurs whenever the specific thing has ceased to belong to the testator. *In re Bridle*, 4 C. P. D. 336. And the application of this doctrine does not depend upon the intention of the testator. *May v. Sherrard*, 115 Va. 617, 79 S. E. 1026; *Stanley v. Potter*, 2 Cox 180. Although the principle is usually strictly applied, a mere change in the form of the *res* is held not to involve ademption. *In re Clifford*, [1912] 1 Ch. 29; *Spinney v. Eaton*, 111 Me. 1, 87 Atl. 378; *Clough v. Clough*, 3 Myl. & K. 296. The present case is one of a class of cases where the change, although it does not result in a surrender of the *res*, is more than formal. Thus, on purchase of the fee, a leasehold held by the purchaser merges therein and a specific legacy of such a leasehold is adeemed. *Emuss v. Smith*, 2 De G. & S. 722; *Capel v. Girdler*, 9 Ves. Jr. 509. Similarly, a bequest of a sublease is adeemed by taking an assignment of the original lease. See *Porter v. Smith*, 16 Sim. 251. In the converse case it has been held that a devise of a specific tract of land is not adeemed *in toto* by a subsequent lease. *Brady v. Brady*, 78 Md. 461, 28 Atl. 515.

MASTER AND SERVANT — WORKMEN'S COMPENSATION ACTS — AMOUNT OF COMPENSATION: TIPS RECEIVED IN COURSE OF EMPLOYMENT. — Claimant was a truck driver, engaged in delivering meat. Without the knowledge of his employer, he assisted his employer's customers in hanging up meat after delivery, and received tips for these services. *Held*, that the tips should not be considered in fixing the amount of compensation. *Begendorf v. Swift & Co.*, 183 N. Y. Supp. 917.

Workmen's Compensation Acts provide for compensation based on the "earnings" or "wages" of the employee. See 6 EDW. 7, c. 58, sched. 1, § 2; 1913 NEW YORK LAWS, c. 816, §§ 3 (9), 14. But such "earnings" or "wages" include more than the actual money paid by the employer. That tips may be taken into account in some cases is indisputable. *Penn v. Spiers & Pond, Ltd.*, [1908] 1 K. B. 766 (waiter); *Bryant v. Pullman Co.*, 188 App. Div. 311, 177 N. Y. Supp. 488, aff'd 228 N. Y. 579, 127 N. E. 909 (porter); *Sloat v. Rochester Taxicab Co.*, 177 App. Div. 57, 163 N. Y. Supp. 904, aff'd 221 N. Y. 491, 116 N. E. 1076 (taxicab driver). *Capen v. Terminal Hotel Co.*, 1 Cal. Industr. Acc. Comm., pt. 2, 562 (bell-boy). The principal case, however, is distinguishable, and the decision seems correct. The problem is one of statutory construction, to determine under what circumstances tips are a part of "earnings" or "wages" within the meaning of the statutes. The line may properly be